

240-A

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-53010-2019 (O&M)

Date of decision: 28.07.2023

Nazar Singh alias Tinku

....Petitioner

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. Narinder Saini, Advocate for
Mr. K.S. Saini, Advocate for petitioner.

Mr.Mohit Thakur, AAG, Punjab

ARUN MONGA, J. (ORAL)

Petition herein is for quashing of order dated 01.10.2019 (Annexure P-4), whereby learned trial Court, has cancelled the bail of petitioner and bail bonds were forfeited to the State in the proceedings arising out of FIR No.27 dated 30.01.2016, registered under Section 419, 420, 465, 467, 468, 471, 474, 120-B of IPC, 1860 at Police Station, City Kharar and non-bailable warrants were issued against him.

2. Learned counsel for the petitioner contends that petitioner was admitted on bail by learned trial Court vide order dated 04.05.2019 (Annexure P-2). He further submits that petitioner was facing trial regularly and attending the court proceedings on each and every date. However, on 01.10.2019, he could not appear before learned Court as he had noted the wrong date of hearing and his bail was cancelled and non-bailable warrants were ordered to be issued. Hence, the instant petition.

3. Learned counsel for petitioner states that absence of petitioner was not deliberate but was due to sheer inadvertence. The default in appearance was due to circumstances beyond control and not at all intentional. He submits that non-appearance was neither willful nor intentional as he was regularly attending the trial. However, without issuing any prior notice to the petitioner, learned trial Court erroneously cancelled the bail of the petitioner without giving an opportunity of being heard and then issued non-bailable warrants. Resultantly, impugned order is unsustainable in law.

4. On the other hand, learned State counsel submits that learned trial Court rightly cancelled the bail of petitioner since he deliberately chose not to appear on the date fixed and violated the terms of bail bonds.

5. Arguments heard.

6. On 13.02.2019, while issuing notice of motion in this case, my learned brother Mahabir Singh Sindhu, J., (as he then was seized of the matter), passed the following order:

“Contends that on account of communication gap, petitioner could not appear before learned trial Court on 01.10.2019.
Prima facie, it seems that the plea raised by learned Counsel for the petitioner is absolutely untenable, but taking into consideration the fact that this Court has already given interim protection to two of the co-accused, namely, Gurwinder Singh and Sukhdev Singh.
Notice of motion for 05.02.2020.
In the meanwhile, the petitioner is directed to surrender before learned trial Court on 04.01.2020 and he be released on interim bail in the present case till the next date of hearing subject to the satisfaction of learned trial Court.
To be heard along with CRM-M-51395-2019.”

7. On 28.01.2020, on an application moved by petitioner seeking extension of time to surrender before learned trial Court, the petitioner was directed to surrender before learned trial Court in terms of earlier order dated 13.12.2019 *ibid*, vide which he was granted interim bail subject to the satisfaction of learned trial Court.

8. After passing of aforesaid order by this Court, petitioner has been appearing before learned trial Court regularly. In the premise, order dated 13.12.2019 is made absolute. As a natural corollary, the impugned order dated 01.10.2019 (Annexure P-4), whereby bail of petitioner was cancelled and non-bailable warrants were ordered to be issued, are rendered otiose. No further orders are required to be passed by this Court.

9. Disposed of, accordingly.

10. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

28.07.2023

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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No